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09/752,836	01/03/2001	Bunji Inagaki	0165-279	9926

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EXAMINER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 17

Application Number: 09/752,836
Filing Date: January 03, 2001
Appellant(s): INAGAKI ET AL.

Thomas W. Cole
For Appellant

EXAMINER'S ANSWER

MAILED
JUL 16 2003
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This is in response to the appeal brief filed April 7, 2003.

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(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on July 8, 2002 has not been entered.

The amendment after final rejection filed on April 7, 2003 has been entered.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

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(7) Grouping of Claims

Appellant's brief includes a statement that claims 1,3-6 and claims 7-21 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,245,480

Polzer

9/1993

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1,3-7,10,11,15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Polzer made of record

Polzer shows in fig. 2 a vehicle mirror assembly including mirror(5), visor cover(7) and visor rim(4) mounted on opposite sides of bracket(3), adjustment unit(8), and fastener structure/elements(34,35,etc.) provided at the visor cover and bracket. Polzer further discloses a retracting unit mounted to the bracket and having a stand and rotating portion connecting the bracket to the door mirror stay (see col. 2 lines 39-45 and 57-61).

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The method limitations of claims 7,10,11,15 and 18 are inherent in the structure of Polzer's mirror device. Also note claim 5 of Polzer which implies that the mirror is mounted to the bracket after the visor rim is mounted but before the visor cover is mounted.

Claims 8,9,12-14,16,17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polzer made of record.

Polzer does not explicitly teach use of a bracket jig to assist in mounting the components such as the visor rim. However, mounting jigs are commonly used in assembling vehicle mirror devices. Also note that disposing the bracket horizontally or repositioning the bracket to face in the opposite direction as found in claims 9,13,14,17 and 20 would commonly occur during the manufacturing process, i.e. orienting the bracket in various ways when handling or assembling the device. It would have been obvious to the ordinarily skilled artisan at the time of invention to use such a jig in the claimed manner with Polzer's apparatus in order to aid the worker in efficiently manufacturing the mirror device.

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(11) Response to Argument

Regarding the anticipation rejection of claim 1, appellant has argued that Polzer lacks the recited "stand" and "rotating portion" set forth in the claim. Appellant has further argued that the examiner has not construed these terms in accordance with their proper meaning defined in the instant specification.

In response, it should be noted that the specification does not explicitly define the terms "stand" and "rotating portion." Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Since these terms have not been given explicit extraordinary meaning in the instant specification, they are given their broadest reasonable interpretation. Thus, the term "stand" has been construed by the examiner as something generally "upright" in accordance with Webster's II New College Dictionary. The term "rotating portion" likewise has been construed as something which rotates or may rotate.

These features are met by Polzer in the following manner. Referring to figs. 2 and 3 and column 2 lines 39-61 of Polzer, there is disclosed a retracting unit for enabling folding or rotating of the mirror visor(4) and bracket(3) relative to the

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door mirror stay(2,9). Polzer's tubular rivet(75) is considered as the "stand." Note that this rivet(75) is generally upright as shown in the top-down view of fig. 2 and as may be implied from the front-view of fig. 3 (the rivet extends vertically through bore 12).

The armlike extension(10) of the bracket(3) is considered as the "rotating portion." Note that this portion (along with the bracket(3)) *rotates* about the "stand" (tubular rivet 75). Further evidence of this teaching may be found in Polzer's claim 1 which states that the support plate and its extension (corresponding to items 3 and 10) are *rotatable* about the mirror base or stay(2,9). Accordingly, Polzer includes structures which satisfy a reasonably broad interpretation of the terms "stand" and "rotating portion" as found in the claims.

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Regarding appellant's remarks in the first paragraph of page 6 of the brief, it should be noted that the examiner's position is not and has never been that Polzer's item 10 corresponds to both the "stand" and the "rotating portion." Regarding the remarks in the second paragraph of page 6, it should also be noted that the stand being "fixed" or "fixedly" mounted is not found in the claims of the instant application.

Regarding appellant's remarks concerning claim 7 on page 7 of the brief, it should be noted that "stand" and "rotating portion" are not found in this claim.

Regarding the remaining claims, appellant has provided similar arguments to the effect of Polzer allegedly lacking a "stand" and "rotating portion." In response, the examiner's rebuttal and remarks set forth above are repeated.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

Mark Robinson

June 19, 2003

Conferees *OK*

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